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Israeli Parliament Committee Amends Disclosure Requirements of Top Executives' Compensation Terms

Until now, many Israeli companies listed on U.S. stock exchanges have enjoyed minimal disclosure requirements regarding the compensation paid, on an individual basis, to executives. U.S. securities laws provide several accommodations and reporting exemptions for companies incorporated outside of the United States that qualify as 'Foreign Private Issuers'. Historically, this was done in order to entice foreign companies to trade on U.S. markets. Accordingly, most Israeli companies listed on U.S. exchanges have disclosed the compensation terms of their top executives and board members in the aggregate, rather than on an individual basis. However, a new regulation under the Israeli Companies Law is about to change the status quo that many Israeli companies have grown accustomed to.

THE AMENDED RULE

In May 2014, the Constitution Law and Justice Committee of the Israeli Knesset passed an amendment to regulations of the Companies Law. The amendment, which came into effect on July 2, 2014, requires public companies listed on stock exchanges outside of Israel to disclose the specific compensation details of their five highest paid executives. Specifically, the information must be included in a company's notice to its shareholders of an annual general meeting (AGM) or a document provided to the shareholders with the notice of the AGM, such as a proxy statement.

CONSEQUENCES TO SEC FILINGS

Item 6.B. of Form 20-F (applicable to IPOs and annual reports of foreign private issuers) provides that executive compensation details must be disclosed on an individual basis only if (a) such details are required to be disclosed in the company's home country, or (b) such details are otherwise disclosed.

ANNUAL REPORTS

It seems clear enough that once a company includes the new expanded disclosure in its AGM notice (after it becomes a public company), it will be required to disclose individual executive compensation details for its five highest paid executives in future annual reports filed with the SEC. However, there is some uncertainty regarding disclosure requirements prior to a company's first AGM notice as a public company – specifically at the IPO stage.

IF YOU WOULD LIKE ADDITIONAL INFORMATION, PLEASE CONTACT:

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INITIAL PUBLIC OFFERINGS (IPO)

Whether a company will be required to include the expanded compensation disclosure in its registration statement on Form F-1 filed in connection with an IPO depends on the interpretation of the first element of Item 6.B., which requires the expanded disclosure only if home country rules require the same. Indeed, Israeli rules do (or will) require disclosure, but not until a company's first AGM notice as a public company. The wording in Item 6.B. is quite general and perhaps open to interpretation - our understanding is that there are varied practices among Israeli IPO candidates. Accordingly, many of such candidates prefer to push for a more liberal interpretation, avoiding expanded disclosure for as long as possible. To date, we are not aware of an official SEC position on this matter.

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To obtain further information about the rules governing the disclosure of executive compensation, please contact the lawyer at ZAG-S&W with whom you regularly consult, or any of the lawyers listed above.